

Bay Delta Bd mtg May 22

SB



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cc: Bd members  
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10.076.01  
May 17, 1995



VIA AIRBORNE EXPRESS

Barbara Leidigh  
Senior Staff Counsel  
State Water Resources Control Board  
901 P Street  
Sacramento, CA 95814

Re: Comments On Draft Water Quality Control Plan For the San Francisco Bay/Sacramento - San Joaquin Delta Estuary

Dear Ms. Leidigh:

On behalf of Golden Gate Audubon Society, Marin Audubon Society, Santa Clara Audubon Society, Ohlone Audubon Society, Mount Diablo Audubon Society, Sequoia Audubon Society, Napa-Solano Audubon Society, Point Reyes Bird Observatory, Natural Resources Defense Council, The Bay Institute, Save San Francisco Bay Association, Pacific Coast Federation of Fishermen's Associations, California Native Plant Society, Citizens For A Better Environment, United Anglers Of California, and Sierra Club we are writing to request additional time to review the Draft Water Quality Control Plan for the San Francisco Bay/Sacramento - San Joaquin Delta Estuary and associated environmental documentation before your Board takes action thereon. Your Notice of the State Water Resources Control Board's meeting to consider adoption of this Draft Plan indicates that this meeting will take place on May 22, 1995, only 12 days after our receipt of the Draft Plan and only 7 days after our receipt, yesterday, of the Draft Plan's Environmental Report and Response to Comments. As you know, these documents, particularly the Environmental Report, are quite lengthy and will require much more time than the one week remaining for our review and comment. The above-named groups will not be able to complete their review of these critical documents in the short time you have provided. Further, due to previously scheduled commitments, some of the above-named groups, as well as the undersigned, will be unable to attend the public hearing you have scheduled for May 22.

Additionally, we note that applicable law, including the Water Board's own governing regulation, 23 C.C.R. § 3777(b), requires a 45-day waiting period between the Notice of Filing of the functional equivalent report and action on the proposed



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activity. Since your Environmental Report was not released until May 12, 1995, the earliest possible date that the Board could take action to approve the Draft Plan would be June 26 - over one month after the May 22 hearing. Therefore we respectfully request that you defer final action on the Plan until at least June 26 to permit concerned members of the public including the Environmental Coalition an adequate opportunity to review and comment on this important document.

Although we have not been afforded a sufficient opportunity to respond to your Draft Plan and associated environmental documentation, we note preliminarily the following concerns:

1. We take strong exception to the Draft Plan's challenge to the authority of the United States Environmental Protection Agency to adopt water quality standards that regulate salinity and indirectly affect the hydrologic regime, including fresh water flows. Under section 303(c) of the Clean Water Act, the State Water Board must provide a level of protection for designated water uses, including fish and wildlife, equivalent to EPA's Bay-Delta water quality standards.

2. The Draft Plan's narrative water quality objective for salmon protection, "a doubling of natural production of chinook salmon from the average production of 1967 -1991," appears to be less protective than either the state or federal antidegradation policies. Those policies, as expressed in State Water Board Res. No. 68-16 and 40 C.F.R. §§ 131.3(e) and 131.12, require protection of fishery levels extant as of 1968 and November 28, 1975, respectively.

3. The Draft Plan's proposed export limit of 65 percent from July through January could allow fresh water diversions to exceed by a substantial margin historic export levels during this period. The environmental impact of this potential increase in fresh water diversions has never been studied, and it is unknown whether it might expose designated uses to unacceptable harm.

4. The Draft Plan's management regime for the San Joaquin River does not adequately protect its fish and wildlife beneficial uses. The proposed level of diversion of 100 percent of Vernalis flow does not in and of itself appear to assure adequate fishery transport during the April - May period, and could expose fish to unacceptable levels of entrainment in the export pumps.

5. The Draft Plan confuses salinity-based objectives with Delta outflow objectives. The current scientific consensus is that salinity is a more accurate and dependable measure of estuarine habitat than is outflow alone.

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6. The Draft Plan does not address measures, such as temperature objectives, essential to protect salmon spawning and rearing.

We intend to submit more detailed comments after we have had an adequate opportunity to review your Draft Plan and associated environmental documentation. Please advise us immediately whether you will extend the public comment period and defer Board action on the Draft Plan as we have requested and applicable law requires.

Very truly yours,

*Stephan C. Volker (Jan)*  
Stephan C. Volker

cc: U.S. E.P.A.

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